

REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 2, 3, 5-20 and 22-25 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the amendments and remarks as set forth below.

Allowable Subject Matter

It is gratefully acknowledged that the Examiner considers the subject matter of claims 2, 3 and 16-18 as being allowable.

Rejection under 35 U.S.C. § 112

Claim 11 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Examiner points out a lack of antecedent basis in the claim. By way of the present amendment, claim 11 has been amended to remove “the”. Accordingly, this rejection is overcome.

Rejection under 35 U.S.C. § 102

Claim 22 stands rejected under 35 U.S.C. § 102 as being anticipated by Lee et al. (U.S. Patent No. 5,700,378). This rejection is respectfully traversed.

The Examiner states that Lee shows a supply aperture 56, a discharge aperture 70, an inlet chamber 62, a passage chamber with a separator 14, an outlet chamber 18 and stands. Applicants submit that claim 22 is not anticipated by the reference.

First, it is important to realize that the present apparatus provides a new approach for handling amalgam from dental sewage. In this device, the amalgam is separated from the water until the apparatus becomes filled with amalgam. The entire apparatus is then replaced by an apparatus with no amalgam. The filled apparatus is shredded at a location designed to recycle such apparatus. Since the amalgam is much denser than the synthetic material of the separating apparatus, it is easy to provide a separation. The shredded apparatus material can then be

recycled to form a new apparatus such as by injection molding. It is not necessary for the dentist to be involved with the cleaning of the separating apparatus, but only needs to remove the old apparatus and place a new apparatus in its position.

In order for this approach to be workable, the entire apparatus including the foil for sedimentation consists of a recyclable synthetic material that can be shredded. This is different from the approach used in prior art devices.

Concerning the Lee et al. reference, first it is noted that it is not designed for separating amalgam, but rather for material such as yeast, bacteria, algae, proteins, fibers or the like which have a density very close to that of liquid. There is very little description of the actual foils except to indicate that they are preferably made of a plastic material. However, there is no discussion of the possibility of recycling or shredding the entire apparatus. In fact, the system is designed to be cleaned and reused when it is full. As indicated at column 4, lines 38 and following, the cassette 14 is tilted to a vertical emptying position and a vibrator 38 activated to shake loose the sediment. A back flushing is also used followed by the removal of the sediment. The separator is then reused. Thus, this arrangement in no matter teaches the possibility of shredding the apparatus or recycling the synthetic material which formed the foils. It is also not designed to separate amalgam as is described in the preamble of the claim. For these reasons, Applicants submit that claim 22 is not anticipated by Lee et al.

Rejection under 35 U.S.C. § 103

Claims 22, 5-13, 15, 19 and 20 stand rejected under 35 U.S.C. § 103 as being obvious over Ernryd (WO 98/46324) in view of Lee et al. This rejection is respectfully traversed.

The Examiner points out that Ernryd teaches an apparatus for separating amalgam from dental sewage having apertures, an inlet chamber, a passage chamber with separator 10, an outlet chamber, where the housing is sealed in a liquid-proof manner. The Examiner admits that Ernryd does not the separator having layers with wound structures of synthetic foil.

The Examiner relies on Lee et al. to teach a separator having tight fitting layers of wound structure synthetic of foil. The Examiner feels it would have been obvious to use the separator structure in the Ernryd device.

Applicants submit that claim 22 is not obvious over these combination of references. As discussed above, claim 22 has been amended to make it clear that the material utilized is a shredable recyclable synthetic material. Ernryd only points out that the plates may be a metallic or non-metallic material. Specifically the use of synthetic material such as plastic is not specified. It is further noted that page 2 lines 6 of this reference makes it clear that it is designed to be reused a number of times since it discusses being easy to clean. Thus, this apparatus is not designed to be shredded and recycled. Applicants submit that claim 22 is allowable over the combination of references as well.

Claims 5-20 and 23-25 depend from claim 22 and as such are also considered to be allowable. In addition, each of these claims recite other features that make them additionally allowable, such as the form of the foils and the location and shape of other parts of the apparatus. Accordingly, these claims are considered to be additionally allowable.

Claim 14 stands rejected under 35 U.S.C. § 103 as being obvious over Ernryd in view of Lee et al. and further in view of Kopp (U.S. Patent No. 1,902,171). The Examiner relies on Kopp to teach apparatus having a vent channel to facilitate the flow of sewage in case it becomes clogged. Applicants submit that even if this reference does teach this feature the claim remains allowable based on its dependency from allowable claim 22.

Conclusion

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejection and allowance of all the claims are respectfully requested.

Application No. 10/765,962
Amendment dated October 23, 2007
Reply to Office Action of July 23, 2007


Docket No.: 5321-0102PUS1

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert F. Gnuse Reg. No. 27,295 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: October 23, 2007

Respectfully submitted,

By 
Joe McKinney Muncy **ROBERT F. GNUSE**
Registration No.: 32,334 **Registration # 27295**
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant